IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8486 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAGNASINH AGARSINH RATHOD

Versus

DISTRICT SUPERINTENDENT OF POLICE

Appearance:

MR IS SUPEHIA for Petitioner

MR SP HASURKAR for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 15/09/2000

ORAL JUDGEMENT

1. The petitionr-Magansinh Agarsinh Rathod has filed this petitioner challenging the order dated 20th February, 1991 passed by the District Police Officer,

wherein the authority has directed the petitioner to pay Rs.11,939.96 paisa the market value of the land of the petitioner in this behalf.

2. The facts giving rise to this petition are as under :-

2:1 In this petition, the petitioner has stated that he was working as a Head Constable in Police Department of the Gujarat State during the year 1985-91 in Sabarkantha-District. He was transferred at Himmatnagar in the Year-1982, he was allotted the Government Quarter at Himmatnagar in the Year-1983. In May,1983 he was transferred to Rupal Outpost from Himmatnagar. In July-1986 he was transferred from Rupal Outpost to Himmatnagar (Rural).

3. It has also been averred in this petition that since the petition was sought to be evicted forciable from the premises in which he was residing - suit premises. The petitioner has filed Special Civil Application No.3916 of 1988 before this Court and this Court by its order dated 06/12/1990 stayed forciable eviction. However, this Court by its order (Coram : Mr.A. P. Ravani,J.) please to reject the said application on 11th April, 1988.

5. It appears that in the meantime, the petitioner has transferred from Modasa to Idar, in November,1987. The petitioner has come to be dismissed from service in July,1988.

6. Being aggrieved by the said order, the petitioner has filed Special Civil Application No.3916 of 1988 in this Court. On 06/02/1990 the dismissal order was revoked by the Director General and I.G. of Police, Ahmedabad and the petitioner was posted at Mandvi on 09/02/1990 and the petitioner was transferred from Mandvi to Dhansura Police Station on 22/02/1990 from which place the petitioner retired from service on 30/09/1991.

7. It is stated by the petitioner that the petitioner remained in the possession of the Government premises allotted at Himmatnagar from May-1985 to April-1991. As per para-(223) of the Gujarat Police Manual, the petitioner is also entitled to rent accommodation.

8. As stated above, the Government has passed the order regarding the recovery of extra market rent dated February, 1991.

9. In view of the aforesaid facts and circumstances of the case, as the petitioner was not heard before order regarding recovery the excess market rent was passed in February, 1991. I direct the Government Authority to hear the petitioner and decide about the payment and recovery the excess market rent which has been recovered from the petitioner in this behalf. The Government shall pass the reasoned order within four months from the date of receipt of this order. This petition accordingly partly allowed. No order as to costs. Rule is made absolute to the aforesaid extent. Notice is discharged.

(K. M. Mehta,J.)